



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

BJG  
Docket No: 2361-00  
4 May 2000

MA [REDACTED] USMC  
[REDACTED]

Dear Major [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

It is noted that the Commandant of the Marine Corps (CMC) has directed removal of your fitness report for 16 July to 30 November 1998.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 3 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board, dated 4 April 2000, and the advisory opinion from the HQMC Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 30 March 2000, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice warranting removal of your failure of selection by the Fiscal Year 2001 Lieutenant Colonel Selection Board. In this connection, the Board substantially concurred with the comments contained in the advisory opinion from MMOA-4 in concluding that your selection would have been definitely unlikely in any event. Accordingly, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is

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important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosures



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

2361-CC

IN REPLY REFER TO:

1610  
MMER  
4 Apr 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF MAJOR [REDACTED]  
[REDACTED] USMC

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 23 Mar 00  
(2) CMC Advisory Opinion 1610 MMOA-4 of 30 Mar 00  
(3) Copy of CMC ltr 1610 MMER of 4 Apr 00

1. As evidenced by enclosure (1), PERB removed from Major [REDACTED]'s official military record, the fitness report for the period 980716 to 981130 (TR).

2. We defer to BCNR on the issue of Major [REDACTED]'s request for the removal of his failure of selection to the grade of Lieutenant Colonel. Enclosure (2) is furnished to assist in resolving that matter.

3. By enclosure (3), this Headquarters provided Major [REDACTED] with a copy of the Advisory Opinion contained at enclosure (2).

[REDACTED]  
D. G. CHRISTIANSEN  
Head, Performance Evaluation  
Review Branch  
Personnel Management Division  
By direction of the Commandant  
of the Marine Corps



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
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2361-00

IN REPLY REFER TO:  
1610  
MMER/PERB  
23 MAR 2000

From: Commandant of the Marine Corps

To: Major [REDACTED]

SMC

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C

1. Per the reference, the Performance Evaluation Review Board has reviewed allegations of error and injustice in your Naval record. Having reviewed all the facts of record, the Board has directed that your Naval record will be corrected by removing therefrom the following fitness report:

Date of Report

Reporting Senior

Period of Report

2 Dec 98

[REDACTED] 980716 to 981130 (TR)

2. There will be inserted in your Naval record a memorandum in place of the removed report. The memorandum will contain appropriate identifying data concerning the report and state that it has been removed by direction of the Commandant of the Marine Corps and cannot be made available in any form to selection boards and reviewing authorities. It will also state that such boards may not conjecture or draw any inference as to the nature of the report or the events which may have precipitated it, unless such events are otherwise properly a part of the official record. The Automated Fitness Report System (the data base which generates your Master Brief Sheet) will be corrected accordingly.

3. The Commandant of the Marine Corps is not empowered to grant or deny the removal of failure(s) of selection from a Naval record. Accordingly, your case will be forwarded to the Board for Correction of Naval Records (BCNR) for consideration of that issue.

[REDACTED]  
By direction



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
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2361-00

IN REPLY REFER TO:

1600

MMA-4

30 Mar 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: BCNR PETITION FOR MAJOR [REDACTED]  
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of  
[REDACTED] USMC  
[REDACTED]

1. Recommend disapproval of Major [REDACTED] request for removal of his failure of selection.

2. Per the reference, we reviewed Major [REDACTED] record and petition. He failed selection on the FY01 USMC Lieutenant Colonel Selection Board. Subsequently, he successfully petitioned the Performance Evaluation Review Board (PERB) for removal of the Transfer fitness report of 980716 to 981130, his only report since being augmented in 1998. Major [REDACTED] requests removal of his failure of selection.

3. In our opinion, the favorable PERB action enhances the competitiveness of the record, but not significantly enough to warrant removal of the failure of selection. Moreover, Major [REDACTED] record contains other areas of competitive concern that more than likely contributed to his failure of selection.

a. **Career Path.** Major [REDACTED] failed selection on the FY94 and FY95 USMC Major Selection Boards and was released from active duty. He then served one year in the Individual Ready Reserve with less than two months of observed reports. He was selected to his current rank by the FY96 USMCR Major Selection Board and served in the Active Reserve program from 950903 to 980715. He was augmented by the FY97 Officer Retention Board and returned to active duty on 980716.

b. **Value & Distribution in Command.** While serving in a company command billet, Major [REDACTED] was eight officers ranked above him and five below, placing him in the bottom-half of his peer group.

